
(1991) 12 MP CK 0021
In the Madhya Pradesh High Court
Case No : M.P. No. 1877 of 1990

Pannalal Sahgal

APPELLANT

Vs

Dr. Veer Bhan Verma and Others

RESPONDENT

Date of Decision : 02-12-1991

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 306, 398A, 498A

Citation : (1992) J LJ 327

Hon'ble Judges : Shacheendra Dwivedi, J; R.C. Lahoti, J

Bench : Division Bench

Advocate : R.K. Sharma, for the Appellant; R.D. Jain, for the Respondent

Final Decision : Dismissed

Judgement

Shacheendra Dwivedi, J.—This petition is by a desperate father, whose daughter Smt. Dr. Verma, married to Respondent No. 1 Dr. Veer Bhan Verma, died under suspicious circumstances. As a letter petition it was filed u/s 482 Code of Criminal Procedure This Court under the writ jurisdiction, entertained the letter petition under Article 227 of the Constitution for seeking a direction of a fresh investigation that too, through some higher agency than Railway Police.

2. The deceased Dr. Neena Verma was married to Respondent No. 1 Dr. Veer Bhan Verma in the year 1977 and the dead body of Dr. Mrs. Neena Verma was found on the Railway track near Birla Nagar Railway Station, Gwalior, on 15.5.89.

3. On finding the dead body, Railway Police registered the case under "Marg". The Respondents 1,2 and 3 on making search for her in the town, went to Lucknow to find Dr. Neena Verma on the assumption that she might have left to see her ailing father, i.e., the Petitioner, but when she was not found at Lucknow, they returned back and on reaching Gwalior, they got the information that the dead body of Dr. Neena was recovered by Police at the Railway track. The autopsy was conducted and the dead body was handed over to the Respondent

No. 1 and 2 for funeral.

4. On investigating the Marg. the Police found that an offence u/s 498A/306 I.P.C. was committed by the Respondents 1 and 2 as even from the version of Petitioner and his wife Dr. Neena was being teased for poor dowry and subsequently on completing the investigation, the case was challaned against the Respondent No. 1 and his mother by the police in the Court, which was committed to the Sessions Court for trial.

5. At the trial, charges were framed against Respondent No. 1 and his mother Smt. Bhagwan Devi. The prosecution has examined 9 witnesses, including Dr., who conducted the autopsy and the daughter and the son of the deceased.

6. The Petitioner believes that his daughter deceased Dr. Neena Verma did not commit suicide nor met with any accident but she was done to death by Respondent No. 1, her husband, who was assisted by Respondents 2 and 3. The Respondent No. 4 who investigated the offence also did not act impartially and did not make proper investigation else the Petitioner believes that the true story of the murder of his daughter Dr. Neena Verma could have come to light and, therefore, the Petitioner claims for a fresh investigation by some higher agency and seeks directions to this effect in that regard.

7. Since the Police after completing the investigation has filed the challan against Respondent and his mother for the offences u/s 498A and 306 I.P.C., very strong grounds are required for directing re-investigation. For re-investigation of the case unless some fresh facts have come to light or an additional evidence has been discovered or there exist compelling fresh grounds, this Court would be slow in directing re- investigation. Therefore, it is to be seen whether in the case any of the conditions exist or not.

8. According to the Petitioner some circumstances have been pointed out to show the reasonable suspicion that if the circumstances are believed the death of Dr. Neena Verma could not be a case of suicide or of accident but a case of murder alone. Amongst those circumstances, a strong motive is also suggested against the Respondent No. 1 of his love affair with Respondent No. 3, who is not an accused at the trial. Respondent No. 3, is the daughter-in-law of the Petitioner, she being wife of his deceased son who had settled at Bombay and after his death Respondent No. 3, shifted to Gwalior or rather was brought to Gwalior by Respondent No. 1.

9. Her elder daughter is taking medical education in Medical College, Gwalior. The Petitioner contends that the Respondent No. 1 had affair with Respondent No. 3 and on that count the relations between him and his wife deceased Dr. Smt. Neena Verma were strained. For removing the hurdle from his way, Respondent No. 1 with the help of or in connivance with Respondents 2 and 3, has done away with the deceased in such a manner that the death may appear as a suicide.

10. Now appreciating the facts of the case from this angle, it would be relevant

to mention that the Petitioner after the death of his daughter deceased Dr. Neena Verma had come with family to Gwalior. In his stay at Gwalior neither he nor his son Hari Mohan Sehgal made any complaint or expressed their suspicion that Dr. Neena was done to death. They were also interrogated by the Police but there was not even a whisper of any love affair between Respondent No. 1 and 3. It is subsequently that the Petitioner introduced the theory.

11. Out of such circumstances which are being now projected by the Petitioner, there are no such circumstances which did not exist earlier when the Police investigated the offence and which have come to light only thereafter. The material circumstances, according to the Petitioner are:

(1) The conduct of the Respondents in making only a formal search for the deceased at Gwalior and also at Lucknow when they had gone to Lucknow.

(2) Their returning back without meeting elder sister of deceased at Shahjahanpur, as suggested by his son-in-law S.P. Talwar.

(3) On getting information at Gwalior that the dead body of deceased was found by Police G.R.P., their not informing the Petitioner, and

(4) The funeral of the deceased having been done, in hurry.

(5) The recovery of the dead body on a different track, which does not lead to Lucknow.

(6) How the deceased reached up to that place.

(7) The late examination during investigation of the children of deceased by the Police.

(8) The illicit relationship of Respondent No. 1 and 3, and a few more circumstances have been made as grounds on which a fresh investigation is prayed.

12. The Petitioner has also pointed out certain lapses in the investigation, such as the non-examination of neighbours of the locality, no investigation having been made and no interrogation having been done of the railway drivers, of the trains, which happened to pass on the track in those hours.

13. In the trial Court also such an application was made by the complainant which was dismissed. The Learned Court below on the discussion of the circumstances came to a conclusion that there were no fresh grounds for directing a re-investigation.

14. While examining the case diary, we have found that the Police did make enquiries from the railway drivers and there is also an endorsement that enquiries were also made from neighbours but since they pleaded total ignorance and nothing incriminating was found in their statements, they were not recorded. Investigation also proceeded to examine in other circumstances, but that led to no conclusion.

15. With this petition also there is no such statement of any person which may be said to be material for unfolding the incident as alleged by the Petitioner and which was not taken cognizance of by the investigating agency. At times facts are more strange than fiction and merely on some circumstances appearing to be suspicious a fresh investigation can not be directed particularly when completing the investigation, challan was filed and the trial has reached the half way, and a number of witnesses have been examined.

16. The two children of the deceased have also deposed in the Court, which exculpates the accused. From the statements of the witnesses recorded at the trial also no such suspicion can be gathered. The Petitioner has neither produced any document nor could point out any material fresh fact or facts which may make out a case for directing re-investigation. The learned trial Court while rejecting the prayer for re-investigation has also given cogent and convincing reasons for not directing re- investigation in the matter, and we do not find any reason for taking a different view.

17. Considering the scope of further investigation Supreme Court in H.N. Rishbud and Inder Singh Vs. The State of Delhi, observed that:

It does not follow that the invalidity of the investigation is to be completely ignored by a Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by orderingsuch re-investigation as the circumstances of an individual case may call for.

18. This decision was referred to by Supreme Court in a later decision of Ram Lal Narang Vs. State (Delhi Administration), and Petitioner's counsel Shri Sharma, basing his argument on this authority, claims re-investigation of the instant case. In "Narang's" case, Supreme Court while contemplating the possibility of further investigation, considered the earlier decision of H.N. Rishbud, "Supra" and expressed that:

This decision is a clear authority for the view that further investigation is not altogether ruled out merely because cognizance of the case has been taken by the Court, defective investigation coming to light during the course of a trial may be cured by a further investigation, if circumstances permit it.

(emphasis supplied by us.)

19. We have earlier discussed the circumstances which have come in our way and considered in the foregoing paragraphs. We have found that no case for re-investigation is made out. Our attention has further been drawn to Kashmeri Devi Vs. Delhi Administration and Another, to submit that the case in hand needs a direction under the above authority of a thorough investigation. But in that case, the act of Police in shielding the guilty members of Delhi Police was apparent and with that design the investigating agency had concocted a different

story neglecting the eye-witnesses account. The facts and the stage of that case was entirely different and the authority has no bearing on the facts of the instant case.

20. Apart from all the above circumstances, the Petitioner has also failed to show as to which would be that material which may on being collected, would connect the Respondents with the offence as alleged by the Petitioner. Therefore, any direction for a re-investigation would be an exercise in futility.

21. For the foregoing reasons, in our view, it is not a fit case where direction for re-investigation may be issued. The trial of the case having covered the half way, must reach to its logical conclusion. The petition is, therefore, dismissed. The record of the case must go down immediately, for an early disposal of the case.